IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

CRL.A.No. 459 of 1998(B)

ST.1194/1996 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI
.....

APPELLANT/COMPLAINANT IN S.T. 1194/96:

M/S. LITTLE FLOWER KURIES & ENTERPISES LTD.,
KOCHI - 1, REPESENTED BY AUTHORISED OFFICER,
HEAD CLERK SRI. C.A. DAVIS.

BY ADV. SRI.VARGHESE C.KURIAKOSE.

RESPONDENTS/STATE AND IN S.T. 1194/96 ACCUSED:
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1. **STATE OF KERALA,**
   REP. BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA,
   ERNAKULAM.

2. **N.H. HUSSAIN, S/O. HAMSA HUSSAIN,**
   AFTARI, CENTRAL BANK OF INDIA,
   KOCHI-35.

BY PUBLIC PROSECUTOR SRI. K.M. FIROZ.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 14/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY, J.

Crl. Appeal No.459 of 1998

Dated this the 14th day of February, 2007

Judgment

This appeal is filed against the order of acquittal in a petition under section 138 of the Negotiable Instruments Act. Notice was ordered on 9.7.1998. Thereafter, even though several opportunities were given, no steps were taken to furnish correct address or to serve notice on the respondent. The following order was passed on 5.10.2006:

> "Post after a week to furnish the correct address of the respondent finally."

But, thereafter also, no steps were taken so far. Without serving notice and without hearing the accused, the order of acquittal in his favour cannot be reversed. In any event, acquittal of the accused for non-appearance of the complainant under section 256 (1) of the code of Criminal Procedure cannot be said to be illegal. In the above circumstances, the appeal is dismissed.

J.B. KOSHY
(JUDGE)

vaa

J.B.Koshy J.

Crl. A. No. 459 of 1998

Judgment

14-2-2007